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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/725,217

Applicant(s)

SCHAAF, VINCENT PAUL

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/1/03 & 6/14/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07/08/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-12, drawn to a waste collecting system, classified in class 4, subclass 464.

II. Claims 13-20, drawn to a method for collecting waste, classified in class 44, subclass 589.

The inventions are distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process of claim 13 does not require a transport network as recited in claims 1 and 9.

During a telephone conversation with Fraser D. Roy on October 26, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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2. The drawings are objected to because in Fig. 1 reference numeral "16" (left occurrence) apparently should be --22-- (par. 031 ln. 2), in Fig. 7 the leader for reference numeral "60" apparently is misdirected (par. 049 ln. 5), in Figs. 7 and 8 reference numeral "52" apparently should be --154-- (par. 046 ln. 8), in Fig. 10 reference numeral "202" (par. 054 ln. 2) is missing, in Fig. 13 reference numeral "282" apparently should be --242-- (par. 065 ln. 3), and reference numeral "192" (par. 052 ln. 5) is missing.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter set forth in claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional

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replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "structure" and "electromechanical cart" set forth in claims 1 and 9, "carrier" set forth in claims 3 and 5, subject matter set forth in claim 6, "transport members" set forth in claim 10, and "mechanism" (both occurrences) set forth in claim 12, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in

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the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites "said cart automatically packaging said bio-waste material". Claim 9 recites similar subject matter. Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

5. Claims 5 and 12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 5 recites "said cart automatically compacts said bio-waste material and seals said bio-waste material within a carrier." Claim 12 recites similar subject matter. Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

6. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites "said cart moves said packaged bio-waste material along said at least one generally horizontal member and

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deposits said packaged bio-waste material down said at least one generally vertical member." Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

7. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites "another cart receives said packaged bio-waste material". Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

8. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites a plurality of carts that "automatically deliver said packaged bio-waste material to said at least one storage receptacle." Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

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9. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites "said transport network comprises at least one of a shaft, a tunnel, a channel, a tube, a track, and an electronic track." Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

10. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites "a mechanism that aids in moving said cart through said transport network." Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

11. The examiner is unable to determine the substance of the "automatically packaging" feature associated with the cart(s) which prevents an application of prior art to the claims.



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However, the prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Devine et al. reference discloses packaged waste in a collection receptacle/cart C which is transported to a storage receptacle (col. 10 ln. 2).

The Jaronko et al. reference discloses waste in an electromechanical collection receptacle/cart (col. 4 lns. 21-25) which is transported to a storage area (col. 4 lns. 47-49).

The Behrens reference discloses treating toilet waste (pg. 1 lns. 89-91) and collecting the waste in a collection receptacle/cart L.

The Baird reference discloses treating toilet waste (pg. 1 par. 2).

12. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

13. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.



Robert M. Fetsuga  
Primary Examiner  
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